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4 OSCAR ALEJANDRO CARRILLO,
5 Petitioner,
6 v.
7 WILLIAM MUNIZ,
8 Respondent.

9 Case No. 15-cv-02561-JD
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**ORDER DENYING MOTION FOR
AN EVIDENTIARY HEARING**

Re: Dkt. No. 19

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13 This habeas case was stayed and closed on January 19, 2016, for petitioner to return to
14 state court and exhaust additional claims. Petitioner has filed a motion for an evidentiary hearing.
15 However, this case is still closed pursuant to the stay. In his motion, petitioner has not requested
16 the stay be lifted and it does not appear that he has finished exhausting his claims. A review of the
17 California Supreme Court docket indicates that petitioner only filed a habeas petition in that court
18 on January 20, 2017. The motion for an evidentiary hearing (Docket No. 19) is **DENIED** without
19 prejudice. Petitioner may refile the motion once the stay is lifted and he has filed an amended
20 petition presenting the exhausted claims.

21 Petitioner is reminded that the stay is subject to the following conditions:

- 22 (1) Petitioner must diligently pursue his state court habeas proceedings; and
23 (2) Petitioner must notify this court within thirty days after the state courts have completed
24 their review of his claim or after they have refused review of his claims.

If either condition of the stay is not satisfied, this Court may vacate the stay and act on this petition. *See Rhines v. Webber*, 544 U.S. 269, 278 (2005) (district court must effectuate timeliness concerns of AEDPA by placing “reasonable limits on a petitioner’s trip to state court and back.”).

IT IS SO ORDERED.

Dated: March 1, 2017

JAMES DONATO
United States District Judge

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

OSCAR ALEJANDRO CARRILLO,
Plaintiff,

V.

WILLIAM MUNIZ,

Defendant.

Case No. 15-cv-02561-JD

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 1, 2017, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Oscar Alejandro Carrillo ID: Prisoner Id AM 1743
Salinas Valley State Prison
P.O. Box 1050
Soledad, CA 93960

Dated: March 1, 2017

Susan Y. Soong
Clerk, United States District Court

By: Lisa R. Clark
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO